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2013 AUG 13 AM 10: 15

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

2013 AUG 13 AM 9: 04

**CELA**

**FIRST GENERAL COUNSEL'S REPORT**

MUR: 6721  
DATE COMPLAINT FILED: Feb. 12, 2013  
DATE OF NOTIFICATION: Feb. 20, 2013  
DATE OF LAST RESPONSE: Mar. 5, 2013  
DATE ACTIVATED: July 15, 2013

EXPIRATION OF SOL:  
Earliest: October 25, 2017  
Latest: October 25, 2017  
ELECTION CYCLE: 2012

**COMPLAINANTS:** Scott Randolph, Orange County Democratic Party

**RESPONDENTS:** Beth Steele  
Women Advocating Respect

**RELEVANT STATUTES  
AND REGULATIONS:** 2 U.S.C. 431(24)  
2 U.S.C. § 434(c)  
2 U.S.C. § 434(g)  
2 U.S.C. § 441d(a)  
11 C.F.R. § 100.22(a)  
11 C.F.R. § 100.28.  
11 C.F.R. § 109.10  
11 C.F.R. § 109.21(b)  
11 C.F.R. § 110.11(a)(2).

**INTERNAL REPORTS CHECKED:** None

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The issues in this matter are whether Beth Steele and Women Advocating Respect ("WAR") violated 2 U.S.C. 434(c) and (g), and 11 C.F.R. § 109.10 by failing to file independent expenditure and 24 hour reports after sponsoring an unknown number of pre-recorded calls ("robocalls") that expressly advocated the defeat of Rep. Alan Grayson and also whether

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1 respondents violated 2 U.S.C. § 441d because the robocalls did not contain an accurate and  
2 complete disclaimer. Ms. Steele does not deny the allegations but requests that the Commission  
3 take no action against her or WAR because “the entity was dissolved before any report was due,”  
4 *she* was unaware that reports needed to be filed, and she and WAR “have nothing to do with any  
5 future political campaigns.” Resp. at 1.

6 Although Ms. Steele’s Response raises issues that may mitigate the ultimate civil penalty  
7 offer by the Commission to resolve her liability, it appears that the calls violated the Act and  
8 Commission’s regulations. Because neither the Complaint nor Response provides the actual cost  
9 of the robocalls, however, conciliation is premature. Accordingly, we recommend that the  
10 Commission find reason to believe that the Respondents violated the Act and authorize a brief  
11 investigation to discern the amount of the expenditure at issue and the appropriate language of  
12 the required disclosure.

13 **II. FACTUAL BACKGROUND**

14  
15 In the 2012 elections, candidate Todd Long was the opponent of Rep. Alan Grayson to  
16 represent the Ninth Congressional District of Florida. Compl. at 2. No organization called  
17 Women Advocating Respect is registered with the Florida Secretary of State, the Florida  
18 Division of Elections, or the Commission, and the Complaint alleges that WAR is merely the  
19 alter ego of Ms. Steele, who it characterizes as Todd Long’s girlfriend. *Id.*

20 The Complaint alleges that on or about October 25, 2012, robocalls featuring Ms.  
21 Steele’s voice were made to voters in Florida’s Ninth Congressional district. The recording  
22 stated:

23 Hi, I’m Beth with Women Advocating Respect. On behalf of the women of Central  
24 Florida, I want you to know this about multi-millionaire congressional candidate Alan  
25 Grayson. This is the same Alan Grayson who called Dan Webster ‘Taliban Dan’ simply  
26 for being a Christian. His TV and radio ads against Todd Long are absolutely false. His

1 distortions to attempt to scare our Seniors are despicable. This is the same Alan Grayson  
2 already thrown out of Congress once for his repeated lies and outrageous comments.  
3 Now he is being sued for millions of dollars for taxpayer fraud. On November 6, send  
4 Alan Grayson home for good. Paid for by Women Advocating Respect.

5 Compl. at 1-2.

6 The Complaint alleges that these robocalls cost over \$1000. *Id.* The Complaint further  
7 alleges that Ms. Steele's/WAR's payments for the robocalls constitute independent expenditures  
8 that should have been reported pursuant to 2 U.S.C. § 434(c)(1) and 11 C.F.R. § 109.10.  
9 Because these expenditures were made within 20 days of an election, the Complaint also alleges  
10 that Ms. Steele/WAR should have reported the independent expenditure within 24 hours as  
11 required by 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 109.10(d).

12 Ms. Steele's response does not address or contest any of the relevant contentions in the  
13 Complaint. Instead, Ms. Steele states:

14 In response to MUR 6721, I would like to respond that no action be taken against [me] or  
15 [WAR]. To my knowledge [WAR] was dissolved before any report was due. I was  
16 unaware of any reports needed to be filed. [WAR] has been dissolved and myself, Beth  
17 Steele, have nothing to do with any future political campaigns. Since [WAR] was  
18 dissolved and will never be active and the fact that I was unaware of any filings, please  
19 advise if I need to file any reports.

20 Resp. at 1.

### 21 III. ANALYSIS

#### 22 1. Independent Expenditure Reporting

23 The Complaint alleged that Ms. Steele/WAR failed to file an independent expenditure  
24 report for the WAR robocalls.<sup>1</sup>

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<sup>1</sup> If Ms. Steele's expenditures were coordinated with Long's Committee, they would be in-kind contributions pursuant to 11 C.F.R. § 109.21(b) rather than independent expenditures. The Complaint notes that the Todd Long for Congress Committee reported receiving three unspecified in-kind contributions worth \$2,399.05 from Ms. Steele between September 14 and September 22, 2012. *Id.* But the Complaint does not draw any connection between these disclosed contributions and the robocalls. In its disclosure reports, the Committee did not identify the nature of Ms. Steele's in-kind contributions or disclose any in-kind contributions from WAR. Although the Complaint alleges, and Steele does not dispute, that Steele was Long's girlfriend, the Complaint does not allege that Steele's

1 Every person other than a political committee who makes independent expenditures over  
2 \$250 in a calendar year must also file an independent expenditure report. 2 U.S.C. § 434(c);  
3 11 C.F.R. § 109.10(b). Any person who makes independent expenditures aggregating \$1,000 or  
4 more after the 20th day, but more than 24 hours, before the day of an election must report the  
5 independent expenditures within 24 hours. 2 U.S.C. § 434(g)(1); 11 C.F.R. § 109.10(d).

6 The Act defines an "independent expenditure" as any expenditure that expressly  
7 advocates the election or defeat of a clearly identified candidate and is not made in concert or  
8 cooperation with or at the request or suggestion of a candidate, a political party committee, or  
9 their respective agents. 2 U.S.C. § 431 (17). A communication contains "express advocacy,"  
10 when it

11 uses phrases such as "vote for the President," "re-elect your Congressman," "support the  
12 Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in  
13 Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-  
14 Choice" accompanied by a listing or clearly identified candidates described as Pro-Life or  
15 Pro Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or  
16 more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or  
17 individual word(s), which in context can have no other reasonable meaning than to urge  
18 the election or defeat of one or more clearly identified candidate(s), such as posters,  
19 bumper stickers, advertisements, etc. which say "Nixon's the One," "Carter '76,"  
20 "Reagan/Bush" or "Mondale!"

21 11 C.F.R. § 100.22(a).

22 Here, the WAR robocall contains express advocacy under 11 C.F.R. § 100.22(a). The  
23 call clearly identifies Grayson as a "congressional candidate," claims that he had been "thrown  
24 out of Congress once," and exhorts listeners to "send Alan Grayson home for good" on  
25 November 6 — the date of the 2012 general election. Thus, the wording of the robocall is

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expenditures for the robocalls were coordinated with Long. Steele's alleged relationship with Long, standing alone, does not satisfy any of the conduct standards in the Commission's coordinated communications regulations. See 11 C.F.R. § 109.21(d). Accordingly, there is insufficient information to conclude that Steele or WAR coordinated expenditures for the robocalls with Long or the Long Committee. If the robocalls were coordinated with the Long Committee, the payments for the calls would be in-kind contributions rather than independent expenditures and, therefore Steele/WAR would not have violated the independent expenditure or 24 hour reporting requirements.

1 equivalent to the words "defeat" or "reject" in 11 C.F.R. § 100.22(a) and expressly advocated  
2 Grayson's defeat.

3 In addition, it appears reasonably likely that the calls cost more than \$1,000. The  
4 Complaint alleged that Ms. Steele spent "well in excess of \$1,000" on the robocalls, Compl. at 2.  
5 Although the Complaint cites no source for this assertion, Ms. Steele's Response does not  
6 dispute the allegation. Further, we note that there are over 500,000 potential voters in the  
7 relevant district, suggesting that Steele would have needed to fund a substantial number of calls  
8 to hope to impact the vote. Accordingly, even at a rate of between two or twelve cents per call,  
9 see Attachment 1, plus the cost, if any, of the phone number list, it is likely that Ms. Steele spent  
10 more than \$1,000 on the robocall.

11 The WAR robocalls were made on October 25, which was within 20 days of, but more  
12 than 24 hours before, the 2012 general election and, therefore, Ms. Steele/WAR had to file  
13 independent expenditure reports within 24 hours of making the calls pursuant to 2 U.S.C.  
14 § 434(g)(1) and 11 C.F.R. § 109.10(d). Ms. Steele did not dispute that allegation either and, in  
15 fact, she asked whether she should file reports. Resp. at 1.

16 Thus, there is reason to believe that Ms. Steele's/WAR's payments for the robocalls  
17 should have been disclosed as independent expenditures with 24 hours of being made but were  
18 not. Accordingly, we recommend that the Commission find reason to believe that Beth Steele  
19 and Women Advocating Respect violated 2 U.S.C. § 434(c), 2 U.S.C. § 434(g), and 11 C.F.R.  
20 § 109.10(d) by failing to file one or more independent expenditure reports within 24 hours of  
21 making independent expenditures for the WAR robocalls.

## 22 2. Disclaimer Violation

23 Whenever any person pays for a communication expressly advocating the election or  
24 defeat of a clearly identified candidate, the communication must include a disclaimer stating

1 whether or not it was authorized by a candidate or candidate's committee and, if not, provide the  
2 name and permanent street address, and telephone number or web address of the person who  
3 paid for the communications. 2 U.S.C. § 441d(a). The Commission's regulations also state that  
4 public communications by any person that expressly advocate the election or defeat of a clearly  
5 identified candidate require a disclaimer. 11 C.F.R. § 110.11(a)(2). Public communications  
6 include communications to the public through telephone banks, which are defined to be over 500  
7 calls of an identical or substantially similar nature made within 30 days. 2 U.S.C. 431(24);  
8 11 C.F.R. § 100.28.

9 The available evidence indicates that Ms. Steele/WAR paid for a communication that  
10 expressly advocates the defeat of a clearly identified candidate and that the communication is a  
11 public communication, specifically, a phone bank of over 500 identical calls. As noted, given  
12 that there were more than 500,000 potential voters in the Congressional district, it is reasonable  
13 to assume that Ms. Steele would have purchased more than 500 calls. Accordingly, there is  
14 sound reason to conclude that the robocalls at issue here required a disclaimer.

15 The only disclaimer in the robocalls was the statement, "Paid for by Women Advocating  
16 Respect." See Compl. at 1. The disclaimer did not state whether or not it was authorized by a  
17 candidate or candidate's committee. Consequently, we recommend that the Commission find  
18 reason to believe that Beth Steele and Women Advocating Respect violated 2 U.S.C. § 441d(a)  
19 and 11 C.F.R. § 110.11(a)(2).<sup>2</sup>

<sup>2</sup> The Complaint also alleged that WAR was "merely the alter ego of Ms. Steele." Compl. at 2. If WAR was not a separate entity but was merely Ms. Steele's alter ego, then the robocalls' disclaimer may be inaccurate. Ms. Steele's Response refers to WAR as an "entity" that was "dissolved," Resp. at 1, suggesting that there is a distinction between Ms. Steele and WAR. If WAR was a separate entity and made more than \$1,000 in expenditures, as the Complaint and Response indicate, it may have been an unregistered political committee. Due to the limited available information about WAR, and the unknown amount at issue, we make no recommendations at this time as to whether WAR was a political committee.

1           **3. Proposed Investigation**

2  
3           The investigation would be focused on determining the amount that Ms. Steele spent on  
4 the robocalls and when she made the expenditure(s), and confirming that WAR was a separate  
5 entity from Ms. Steele and not her alter ego. This is consistent with past Commission  
6 investigations into robocalls. *See* First Gen. Counsel's Report at 9 and Certification at 2  
7 (January 10, 2013), MUR 6560 (Victory Ohio Super PAC) (Commission authorized an  
8 investigation to determine the identity of individuals responsible for the robocalls lacking  
9 disclaimers and to ascertain the cost, timing and number of such calls); *see also* First Gen.  
10 Counsel's Report at 14 and Certification at 2 (Jan. 24, 2011), MUR 6137 (Informed Catholic  
11 Citizens) (Commission authorized an investigation to ascertain the amount of money spent on  
12 the calls, the timing of the calls and the number of calls).

13           **IV. RECOMMENDATIONS**

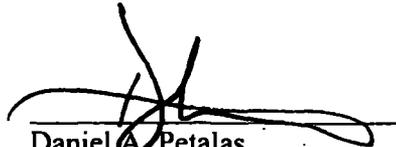
- 14           1. Find reason to believe that Beth Steele violated 2 U.S.C. § 434(c),  
15           2 U.S.C. § 434(g), and 11 C.F.R. § 109.10(d) by not filing an independent  
16           expenditure report within 24 hours of making independent expenditures  
17           over \$1,000 for the WAR robocalls.  
18  
19           2. Find reason to believe that Women Advocating Respect violated 2 U.S.C.  
20           § 441d(a) and 11 C.F.R. § 110.11(a)(2) by not including a complete and  
21           accurate disclaimer in a robocall.  
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23           3. Authorize the use of compulsory process.  
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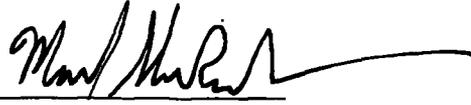
MUR 6721 (Beth Steele; Women Advocating Respect)  
First General Counsel's Report

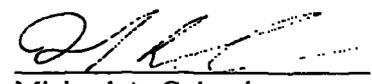
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- 4. Approve the attached Factual and Legal Analyses.
- 5. Approve the appropriate letters.

8/12/13  
Date

  
Daniel A. Petalas  
Associate General Counsel for Enforcement

  
Mark D. Shonkwiler  
Assistant General Counsel for Enforcement

  
Michael A. Columbo  
Attorney

- Attachments:
- 1. Examples of robocall vendor prices.
  - 2. Factual and Legal Analysis

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- Conduct polls to evaluate your message
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#### TELL US WHO TO CALL

Setting up your contact lists can be as easy as emailing us a list of phone numbers in almost any format. If you don't have your own list we can supply you one for 3 cents per record. We can accept Excel, TXT, PDF or CSV Files.

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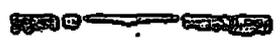
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<b>2,500 to 4,999</b> credits	<b>8.5 ¢ / credit</b>
<b>5,000 to 9,999</b> credits	<b>7.5 ¢ / credit</b>
<b>10,000 to 19,999</b> credits	<b>7.0 ¢ / credit</b>
<b>20,000 to 49,999</b> credits	<b>6.5 ¢ / credit</b>
<b>50,000 to 99,999</b> credits	<b>6.0 ¢ / credit</b>
over <b>100,000</b> credits	<b>call us</b>

If your group contains . . .	It will cost
<b>1 to 25</b> numbers	<b>\$7.50 / month</b>
<b>26 to 50</b> numbers	<b>\$15.00 / month</b>
<b>51 to 100</b> numbers	<b>\$35.00 / month</b>
<b>101 to 200</b> numbers	<b>\$55.00 / month</b>
<b>201 to 300</b> numbers	<b>\$75.00 / month</b>
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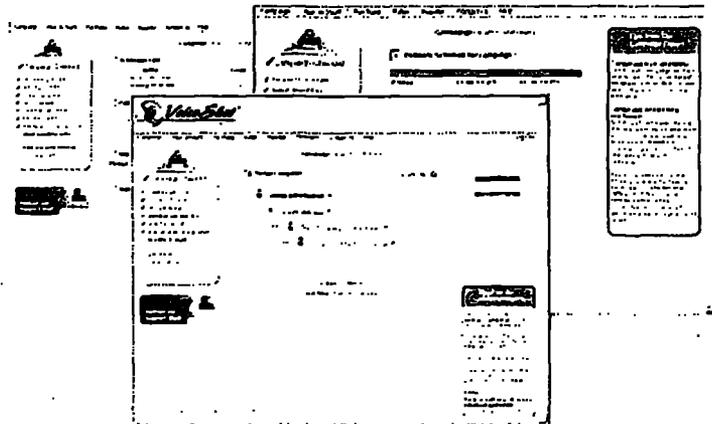
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## Features include...

### No set up fees, no monthly minimums

With VoiceShot Outbound voice broadcasting and voice mail broadcasting, there are no costly set up fees or minimums call commitments. There are also no charges for busy or non-answered calls. Calls that are transferred to another number are billed as a single call. Send as many or as few calls as your project requires and you can test VoiceShot Outbound absolutely free!

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VoiceShot does not charge for unsuccessful calls such as busy or non-answered calls. VoiceShot only charges for successfully delivered calls.

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Create, schedule and launch a full blown call campaign instantly right from the VoiceShot Web Site. Take a survey or a poll, send notifications, reminders or alerts with VoiceShot. Voice broadcasting, its fast and its easy.

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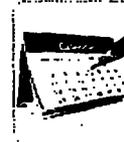
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Send text messages to your group

## Appointment

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**Live people, answering machines or both**

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Record your messages using VoiceShot's dial in service or your own computers microphone and speakers. You can even upload sound files created by professional announcers.

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**Key press verification**

When a call recipient presses one or more keys in response to a voice prompt, you can optionally have the key presses spoken back to the call recipient, with the option for the call recipient to re-enter or accept.

**Powerful call transfer management**

Transfer call recipients to a phone number of your choice - perfect for "press 0 for a live operator" applications. VoiceShot's powerful call transfer management can automatically pause dialing when all of your available operators are talking and resume dialing as soon as one becomes available.

**IVR Developer**



Add voice to your applications

**Virtual Phone System**



Low cost phone system & PBX. Instant setup

**Toll Free**



Toll Free interactive promotional hotline for your business

18006444420001

**On-hold custom music or message**

Call recipients can listen to a unique message or music selection that you record.

**Re-dial of unsuccessful calls**

Calls you initiate that are not answered are automatically re-dialed free of charge. You can choose additional re-dialing with VoiceShot's one click re-dial feature.

**Reporting of caller response by key press**

Real-time reporting captures all recipient key presses allowing you to identify call responses. Additionally, call responses are matched up with all the information from your call list, making it easy to identify which recipient produced which responses. Download your voice broadcasting results into Microsoft Excel and other applications.

**Automated interactive opt-out mechanism for live recipients**

Automated key press opt-out allows live call recipients to opt-out of future calls via a simple telephone key press. Those who choose to opt-out are automatically added to your Do Not Call list and removed from future call campaigns.

**Toll free opt-out mechanism for answering machine recipients**

Get a Toll Free Opt-out Number to ensure that those who listen to your prerecorded message on an answering machine device are able to opt-out of future call campaigns. Call recipients can dial your Toll Free Opt-out Number, listen, interact, and respond by key press. Key press information is reviewed and confirmed by the caller then automatically added to your Do Not Call List.

**Do Not Call list management**

Professional Do Not Call list management tools allow you to honor the request of those who wish to opt-out of future call campaigns. Call recipients can add themselves to your Do Not Call list by pressing a key during the call. In addition, you can upload your existing Do Not Call list into your account and VoiceShot will automatically remove any number on the Do Not Call list from all of your future call campaigns.

**Automatic removal of duplicate numbers**

This feature ensures that you do not send duplicate calls to the same recipients and saves you money.

**Voice Merge with text to speech (TTS)**

Personalize each message for the intended recipient with realistic human sounding text to speech (TTS). Send alerts and notifications, reminders, rates, names, numbers and more. Choose either a male or female voice and even control pitch, speed and the volume of the voice used.

**Web-based auto-dialer**

More powerful than the most expensive auto-dialer. Easier to use than any traditional auto-dialer. Best of all no auto-dialer or equipment is needed to use VoiceShot.

**Telephone and email support**

Customer service and technical support available via email and telephone, with quick response time. At VoiceShot, the customer always comes first.

**No charge for busy, no answer, disconnected numbers or transfers**

VoiceShot only charges for successfully delivered calls. Calls that are transferred to another number are billed as a single call.

Destination	Price per successful call*
US	0.12
Canada	0.12
Alaska	0.21

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Hawaii	0.21
Puerto Rico	0.18
US Virgin Islands	0.27
Australia	0.16
Australia Mobile	0.68
Austria	0.18
Austria Mobile	1.08
Belgium	0.19
Belgium Mobile	1.23
Denmark	0.18
Denmark Mobile	0.98
France	0.15
France Mobile	0.74
Germany	0.16
Germany Mobile	0.88
India	0.76
Ireland	0.17
Ireland Mobile	0.91
Italy	0.15
Italy Mobile	1.20
Japan	0.20
Japan Mobile	0.70
Mexico	0.50
Netherlands	0.15
Netherlands Mobile	1.18
New Zealand New!	0.20
New Zealand Mobile New!	1.09
Norway	0.18
Norway Mobile	0.84
Poland	0.21
Poland Mobile	1.07
Portugal	0.15
Portugal Mobile	1.29
Singapore	0.15
Singapore Mobile	0.15
Spain	0.15
Spain Mobile	1.29
Sweden	0.15
Sweden Mobile	1.09
Switzerland	0.20
Switzerland Mobile	1.29

1-764-444-0881

	0.15
UK Mobile	0.67

\*Price per successful call: VoiceShot price per successful call is based on a 60 second phone call. Calls that exceed 60 seconds will be billed an additional per call price for each additional 60 second interval. Calls will be delivered to the above destinations only. VoiceShot is a nonrefundable prepaid service. Charges apply to all successfully delivered calls.

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5  
6 In the Matter of )  
7 ) MUR 6721  
8 Beth Steele )  
9 Women Advocating Respect )  
10 )  
11 )

12 **I. INTRODUCTION**

13 The issues in this matter are whether Beth Steele and Women Advocating Respect  
14 (“WAR”) violated 2 U.S.C. 434(c) and (g), and 11 C.F.R. § 109.10 by failing to file independent  
15 expenditure and 24 hour reports after sponsoring an unknown number of pre-recorded calls  
16 (“robocalls”) that expressly advocated the defeat of Rep. Alan Grayson and also whether  
17 respondents violated 2 U.S.C. § 441d because the robocalls did not contain an accurate and  
18 complete disclaimer. Ms. Steele does not deny the allegations but requests that the Commission  
19 take no action against her or WAR because “the entity was dissolved before any report was due,”  
20 *she* was unaware that reports needed to be filed, and she and WAR “have nothing to do with any  
21 future political campaigns.” Resp. at 1.

22 Although Ms. Steele’s Response raises issues that may mitigate the ultimate civil penalty  
23 offer by the Commission to resolve her liability, it appears that the calls violated the Act and  
24 Commission’s regulations. Accordingly, the Commission finds reason to believe that the  
25 Respondents violated the Act and authorize a brief investigation to discern the amount of the  
26 expenditure at issue and the appropriate language of the required disclosure.  
27

1 **II. FACTUAL BACKGROUND**

2  
3 In the 2012 elections, candidate Todd Long was the opponent of Rep. Alan Grayson to  
4 represent the Ninth Congressional District of Florida. Compl. at 2. No organization called  
5 Women Advocating Respect is registered with the Florida Secretary of State, the Florida  
6 Division of Elections, or the Commission, and the Complaint alleges that WAR is merely the  
7 alter ego of Ms. Steele, who it characterizes as Todd Long's girlfriend. *Id.*

8 The Complaint alleges that on or about October 25, 2012, robocalls featuring Ms.  
9 Steele's voice were made to voters in Florida's Ninth Congressional district. The recording  
10 stated:

11 Hi, I'm Beth with Women Advocating Respect. On behalf of the women of Central  
12 Florida, I want you to know this about multi-millionaire congressional candidate Alan  
13 Grayson. This is the same Alan Grayson who called Dan Webster 'Taliban Dan' simply  
14 for being a Christian. His TV and radio ads against Todd Long are absolutely false. His  
15 distortions to attempt to scare our Seniors are despicable. This is the same Alan Grayson  
16 already thrown out of Congress once for his repeated lies and outrageous comments.  
17 Now he is being sued for millions of dollars for taxpayer fraud. On November 6, send  
18 Alan Grayson home for good. Paid for by Women Advocating Respect.

19 Compl. at 1-2.

20 The Complaint alleges that these robocalls cost over \$1000. *Id.* The Complaint further  
21 alleges that Ms. Steele's/WAR's payments for the robocalls constitute independent expenditures  
22 that should have been reported pursuant to 2 U.S.C. § 434(c)(1) and 11 C.F.R. § 109.10.  
23 Because these expenditures were made within 20 days of an election, the Complaint also alleges  
24 that Ms. Steele/WAR should have reported the independent expenditure within 24 hours as  
25 required by 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 109.10(d).

26 Ms. Steele's response does not address or contest any of the relevant contentions in the  
27 Complaint. Instead, Ms. Steele states:

1 In response to MUR 6721, I would like to respond that no action be taken against [me] or  
2 [WAR]. To my knowledge [WAR] was dissolved before any report was due. I was  
3 unaware of any reports needed to be filed. [WAR] has been dissolved and myself, Beth  
4 Steele, have nothing to do with any future political campaigns. Since [WAR] was  
5 dissolved and will never be active and the fact that I was unaware of any filings, please  
6 advise if I need to file any reports.

7 Resp. at 1.

### 8 III. ANALYSIS

#### 9 1. Independent Expenditure Reporting

10 The Complaint alleged that Ms. Steele/WAR failed to file an independent expenditure  
11 report for the WAR robocalls.<sup>1</sup>

12 Every person other than a political committee who makes independent expenditures over  
13 \$250 in a calendar year must also file an independent expenditure report. 2 U.S.C. § 434(c);  
14 11 C.F.R. § 109.10(b). Any person who makes independent expenditures aggregating \$1,000 or  
15 more after the 20th day, but more than 24 hours, before the day of an election must report the  
16 independent expenditures within 24 hours. 2 U.S.C. § 434(g)(1); 11 C.F.R. § 109.10(d).

17 The Act defines an “independent expenditure” as any expenditure that expressly  
18 advocates the election or defeat of a clearly identified candidate and is not made in concert or  
19 cooperation with or at the request or suggestion of a candidate, a political party committee, or

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<sup>1</sup> If Ms. Steele’s expenditures were coordinated with Long’s Committee, they would be in-kind contributions pursuant to 11 C.F.R. § 109.21(b) rather than independent expenditures. The Complaint notes that the Todd Long for Congress Committee reported receiving three unspecified in-kind contributions worth \$2,399.05 from Ms. Steele between September 14 and September 22, 2012. *Id.* But the Complaint does not draw any connection between these disclosed contributions and the robocalls. In its disclosure reports, the Committee did not identify the nature of Ms. Steele’s in-kind contributions or disclose any in-kind contributions from WAR. Although the Complaint alleges, and Steele does not dispute, that Steele was Long’s girlfriend, the Complaint does not allege that Steele’s expenditures for the robocalls were coordinated with Long. Steele’s alleged relationship with Long, standing alone, does not satisfy any of the conduct standards in the Commission’s coordinated communications regulations. *See* 11 C.F.R. § 109.21(d). Accordingly, there is insufficient information to conclude that Steele or WAR coordinated expenditures for the robocalls with Long or the Long Committee. If the robocalls were coordinated with the Long Committee, the payments for the calls would be in-kind contributions rather than independent expenditures and, therefore Steele/WAR would not have violated the independent expenditure or 24 hour reporting requirements.

1 their respective agents. 2 U.S.C. § 431 (17). A communication contains “express advocacy,”  
2 when it

3 uses phrases such as “vote for the President,” “re-elect your Congressman,” “support the  
4 Democratic nominee,” “cast your ballot for the Republican challenger for U.S. Senate in  
5 Georgia,” “Smith for Congress,” “Bill McKay in '94,” “vote Pro-Life” or “vote Pro-  
6 Choice” accompanied by a listing or clearly identified candidates described as Pro-Life or  
7 Pro Choice, “vote against Old Hickory,” “defeat” accompanied by a picture of one or  
8 more candidate(s), “reject the incumbent,” or communications of campaign slogan(s) or  
9 individual word(s), which in context can have no other reasonable meaning than to urge  
10 the election or defeat of one or more clearly identified candidate(s), such as posters,  
11 bumper stickers, advertisements, etc. which say “Nixon's the One,” “Carter '76,”  
12 “Reagan/Bush” or “Mondale!”

13 11 C.F.R. § 100.22(a).

14 Here, the WAR robocall contains express advocacy under 11 C.F.R. § 100.22(a). The  
15 call clearly identifies Grayson as a “congressional candidate,” claims that he had been “thrown  
16 out of Congress once,” and exhorts listeners to “send Alan Grayson home for good” on  
17 November 6 — the date of the 2012 general election. Thus, the wording of the robocall is  
18 equivalent to the words “defeat” or “reject” in 11 C.F.R. § 100.22(a) and expressly advocated  
19 Grayson’s defeat.

20 In addition, it appears reasonably likely that the calls cost more than \$1,000. The  
21 Complaint alleged that Ms. Steele spent “well in excess of \$1,000” on the robocalls, Compl. at 2.  
22 Although the Complaint cites no source for this assertion, Ms. Steele’s Response does not  
23 dispute the allegation. Further, we note that there are over 500,000 potential voters in the  
24 relevant district, suggesting that Steele would have needed to fund a substantial number of calls  
25 to hope to impact the vote. Accordingly, even at a rate of between two or twelve cents per call,  
26 see Attachment 1, plus the cost, if any, of the phone number list, it is likely that Ms. Steele spent  
27 more than \$1,000 on the robocall.

1           The WAR robocalls were made on October 25, which was within 20 days of, but more  
2 than 24 hours before, the 2012 general election and, therefore, Ms. Steele/WAR had to file  
3 independent expenditure reports within 24 hours of making the calls pursuant to 2 U.S.C.  
4 § 434(g)(1) and 11 C.F.R. § 109.10(d). Ms. Steele did not dispute that allegation either and, in  
5 fact, she asked whether she should file reports. Resp. at 1.

6           Thus, there is reason to believe that Ms. Steele's/WAR's payments for the robocalls  
7 should have been disclosed as independent expenditures with 24 hours of being made but were  
8 not. Accordingly, the Commission finds reason to believe that Beth Steele and Women  
9 Advocating Respect violated 2 U.S.C. § 434(c), 2 U.S.C. § 434(g), and 11 C.F.R. § 109.10(d) by  
10 failing to file one or more independent expenditure reports within 24 hours of making  
11 independent expenditures for the WAR robocalls.

## 12           **2. Disclaimer Violation**

13           Whenever any person pays for a communication expressly advocating the election or  
14 defeat of a clearly identified candidate, the communication must include a disclaimer stating  
15 whether or not it was authorized by a candidate or candidate's committee and, if not, provide the  
16 name and permanent street address, and telephone number or web address of the person who  
17 paid for the communications. 2 U.S.C. § 441d(a). The Commission's regulations also state that  
18 public communications by any person that expressly advocate the election or defeat of a clearly  
19 identified candidate require a disclaimer. 11 C.F.R. § 110.11(a)(2). Public communications  
20 include communications to the public through telephone banks, which are defined to be over 500  
21 calls of an identical or substantially similar nature made within 30 days. 2 U.S.C. 431(24);  
22 11 C.F.R. § 100.28.

1 The available evidence indicates that Ms. Steele/WAR paid for a communication that  
2 expressly advocates the defeat of a clearly identified candidate and that the communication is a  
3 public communication, specifically, a phone bank of over 500 identical calls. As noted, given  
4 that there were more than 500,000 potential voters in the Congressional district, it is reasonable  
5 to assume that Ms. Steele would have purchased more than 500 calls. Accordingly, there is  
6 sound reason to conclude that the robocalls at issue here required a disclaimer.

7 The only disclaimer in the robocalls was the statement, "Paid for by Women Advocating  
8 Respect." See Compl. at 1. The disclaimer did not state whether or not it was authorized by a  
9 candidate or candidate's committee. Consequently, the Commission finds reason to believe that  
10 Beth Steele and Women Advocating Respect violated 2 U.S.C. § 441d(a) and 11 C.F.R.  
11 § 110.11(a)(2).<sup>2</sup>

#### 12 IV. CONCLUSION

13 There is reason to believe that: (1) Ms. Steele and Women Advocating Respect failed to  
14 file an independent expenditure Report in violation of 2 U.S.C. § 434(c)(1) and 11 C.F.R.  
15 § 109.10(b); (2) failed to file 24 Hour Report in violation of 2 U.S.C. § 434(g)(1)(a) and  
16 11 C.F.R. § 109.10(d) ; and (3) failed to include a complete or accurate disclaimer in a public  
17 communication expressly advocating the defeat of a federal candidate in violation of 2 U.S.C.  
18 § 441d(a) and 11 C.F.R. § 110.11(a)(2).

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<sup>2</sup> The Complaint also alleged that WAR was "merely the alter ego of Ms. Steele." Compl. at 2. If WAR was not a separate entity but was merely Ms. Steele's alter ego, then the robocalls' disclaimer may be inaccurate. Ms. Steele's Response refers to WAR as an "entity" that was "dissolved," Resp. at 1, suggesting that there is a distinction between Ms. Steele and WAR. If WAR was a separate entity and made more than \$1,000 in expenditures, as the Complaint and Response indicate, it may have been an unregistered political committee. Due to the limited available information about WAR, and the unknown amount at issue, the Commission makes no findings at this time as to whether WAR was a political committee.